4157.

SUPREME COURT OF THE UNITED STATES.

No. 136.

WILLIAM W. HUMPHRIES, JOHN K. OTLEY, ALEXANDER F. YOUNG, AND ROBERT D. HADEN, PLAINTIFFS IN ERROR,

vs.

THOMAS P. MILLER, ORLANDO FURNESS, & WILLIAM MORRIS, PARTNERS, USING THE JOINT NAME AND STYLE OF MILLER, FURNESS & CO.

IN ERROR TO THE DISTRICT COURT, UNITED STATES, FOR THE NORTHERN DISTRICT OF MISSISSIPPI.

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Exemplification.

MILLER, FURNESS & CO.,
vs.
WM. H. HUMPHRIES,
ALEX. F. YOUNG, and
others.

Pleas had at a district court of the United States, for the northern district of Mississippi, begun and held at the town of Pontotoc, in said district, on the first Monday in June, A. D. 1849. Present, the honorable Samuel J. Gholson, judge of said court.

Be it remembered, that, on the 21st day of May, 1849, Thomas P. Miller, Orlando Furness, and William Morris, citizens of the State of Alabama, sued out of the office of the clerk of the district court of the United States, for the northern district of Mississippi, their certain summons, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Mississippi, ss:

The President of the United States, to the marshal of the northern district of Mississippi, greeting:

We command you, without delay, to summon William W. Humphries, John K. Ottley, Alexander F. Young, and Robert D. Haden, citizens of the State of Mississippi, residing in the northern district thereof, that they be and appear before the district court of the United States, to be held in the town of Pontotoc, in and for the northern district of Mississippi, on the first Monday of June next, to answer to Thomas P. Miller, Orlando Furness, and William Morris, citizens of the State of Alabama, and merchants and partners in trade, under the firm and style of Miller, Furness & Co., of a plea of trespass on the case, upon promises, &c., to the damage of the plaintiffs five thousand dollars; and that they do file their plea or defence with the clerk of said court on or before the meeting of the same, or judgment will be given against them by default. And have then there this writ.

Witness the honorable Samuel J. Gholson, judge of the district court of the United States, for the northern district of Mississippi,
[SEAL.] at Pontotoc, the first Monday of December, A. D. 1848, and 73d year of the independence of the United States.

Issued the 21st day of May, 1849.

G. M. RAGSDALE,
Clerk.

Which said summons is endorsed as follows, to wit:

This action of assumpsit is founded on three promissory notes, made

by the defendants to the plaintiffs, to wit: one note for one thousand dollars, dated May 15th, 1848, and due sixty days after date; one for one thousand dollars, dated 15th May, 1848, and due 4th November, 1848; and the other for fifteen hundred and thirty $\frac{00}{100}$ dollars, dated May 11th, 1848, and due 15th May, 1849, all bearing interest at 8 per cent. per annum from date. The amount of said promissory notes, with interest, is the sum actually demanded by this suit. Bail is not required.

EVANS & TOPP, *Att'ys.*

May 23d, 1849.

We acknowledge service of this writ.

W. W. HUMPHRIES.
JOHN K. OTTLEY.
A. F. YOUNG.

Upon which said summons the marshal made the following return, to wit: Came to hand 29th May, 1849. Executed on Robert D. Haden, one of the defendants.

JOHN RAYBURN,
Marshal.
By THO'S W. BROWN, *D. M.*

Upon the issuance of the said summons the plaintiffs, by their attorney, filed their certain declaration in the words and figures following, to wit:

The United States of America, district court of the United States, for the northern district of Mississippi. To June term, 1849.

Thomas P. Miller, Orlando Furness, and William Morris, citizens of the State of Alabama, and merchants and partners in trade under the firm and style of Miller, Furness & Co., by attorney, complain of Wm. W. Humphries, John K. Ottley, Alexander F. Young, and Robert D. Haden, citizens of the State of Mississippi, residing in the northern district thereof, of a plea of trespass on the case, upon promises, &c.

1st count. For that whereas heretofore, to wit, on the 11th day of May, 1848, at Columbus, Miss'i, to wit, in the district aforesaid, the said defendants, by the names, signatures, and style of W. W. Humphries, John K. Ottley, A. F. Young, (security,) and R. D. Haden, security, made their certain promissory note of that date, and thereby then and there undertook and promised to pay, on the 15th day of May, 1849, to the order of the said plaintiffs, by the way and style of Miller, Furness & Co., fifteen hundred and thirty $\frac{00}{100}$ dollars, for value received, with eight per cent. interest from date, as loaned money, and then and there delivered said note to the plaintiff.

2d. And whereas, also, the said defendants heretofore, to wit, on the 15th day of May, 1848, at Columbus, to wit, in the district afore-

said, the said defendants, by the same way and style as in the first count set forth, made their certain other promissory note of the date last mentioned, and thereby then and there jointly and severally promised to pay, sixty days after date, to the order of the plaintiffs, by their partnership description and names of Miller, Furness & Co., one thousand dollars, with interest from date at the rate of eight per cent. per annum, for value received, as loaned money, and then and there delivered said note to the plaintiffs.

3d count. And whereas, also, afterwards, to wit, on the day and year last aforesaid, to wit, at Columbus, in the district aforesaid, the said defendants, by the same names and signatures aforesaid, made their certain other promissory note, and thereby then and there promised to pay to the plaintiffs, by their partnership and names and style of Miller, Furness & Co., or order, on the 4th day of November next after the date of said note, one thousand dollars, with interest from date, at the rate of eight per cent. per annum, for value received, as loaned money, and then and [there] delivered said note to the plaintiffs.

Nevertheless, the said defendants, their said several promises not regarding, have not as yet paid the said sums of money in the said several promissory notes mentioned, or either of them, or any part thereof, but to pay the same to the plaintiffs have hitherto neglected and refused, and still neglect and refuse to pay the same, to the damage of the plaintiffs of five thousand dollars, and therefore they sue, &c.

EVANS & TOPP, *Atty's.*

Defendant's plea.

And the said defendants, by attorney, come and defend the wrong and injury, when, &c., and say they did not undertake or promise in manner and form as the plaintiffs have above thereof complained against them, and of this they put themselves upon the country, &c.

HARRIS & HARRISON,
Att'ys for defendants.

Plaintiffs' replication.

And the plaintiffs likewise.

EVANS & TOPP, *Att'ys.*

Order of court, June term, 1849.

MILLER, FURNESS & Co., vs. WM. W. HUMPHRIES et al. } 849.

Thursday, June 7th, A. D. 1849. This case is continued by operation of law.

Order of court, December term, A. D. 1849.

Friday morning, Dec'r 7th, 1849.

MILLER, FURNESS & Co., } 849.
vs.
WM. W. HUMPHRIES et al. }

This day came the parties, by their attorneys, and thereupon, by application of defendants, it is ordered that this cause be continued.

Order of court, June term, A. D. 1850.

Wednesday, June 5th, A.D. 1850.

MILLER, FURNESS & Co., } 849.
vs.
WM. W. HUMPHRIES et al. }

This day came the parties, by their attorneys, and thereupon came a jury of good and lawful men, to wit, jury No. 2, being John W. Comfert and eleven others, who were duly tried, sworn, and empannelled, well and truly to try the issue joined between the parties, and upon their oaths, do say they find the issue joined in favor of the plaintiffs, and assess their damages at forty-one hundred and twelve dollars. It is therefore considered by the court that plaintiffs recover of defendants the sum of forty-one hundred and twelve dollars, and their costs in this behalf expended.

The defendants' bill of exceptions.

UNITED STATES OF AMERICA,
District court, for the northern district of Mississippi.

MILLER, Furness & Co.,
vs.
WM. W. HUMPHRIES, John K. Otley, Alexander Young, and Robert D. Hayden. } 849.—Assumpsit.

June term, A. D. 1850.

Before the honorable Saml. J. Gholson, judge of said court.

Be it remembered, that, on this the 5th day of June, A. D. 1850, being a day in said term of said court, came on to be heard the above stated case before said court; and after the jury were legally empannelled and sworn, the plaintiffs, by their attorneys, in support of the issue joined, read to the jury three promissory notes of defendants, in the words and figures following, to wit:

$1,530 $\frac{1}{0}\frac{0}{0}$. COLUMBUS, *Miss.*, *May* 11*th*, 1848.

On the 15th day of May, 1849, we promise to pay to the order of

Miller, Furness & Co., fifteen hundred and thirty $\frac{44}{100}$ dollars, for value received, with eight per cent. interest from date as loaned.

(Signed) W. W. HUMPHRIES,
JOHN K. OTLEY,
A. F. YOUNG, *Security*,
R. D. HADEN, *Security*.

$1,000. COLUMBUS, *May 15th*, 1848.

Sixty days after date, we, or either of us, promise to pay to the order of Miller, Furness & Co., one thousand dollars, with interest from date, at the rate of eight per cent. per annum, for value received, as loaned money.

(Signed) W. W. HUMPHRIES,
JOHN K. OTLEY,
A. F. YOUNG, *Security*,
R. D HADEN, *Security*.

$1,000. COLUMBUS, *May 25th*, 11*th*, 1848.

On the 4th day of November next, we, or either of us, promise to pay Miller, Furness & Co., or order, one thousand dollars, with interest from date, at the rate of eight of per cent. per annum, for value received, as loaned money.

(Signed) W. W. HUMPHRIES,
JOHN K. OTLEY,
A. F. YOUNG, *Security*,
R. D. HADEN, *Security*.

The plaintiffs then closed their testimony.

The defendants, by their attorney, then read in evidence the following assignment as a judgment, to wit:

THOMAS P. MILLER & Co.
vs. } 7390.
WINSTON & HILL.

Judgment in the circuit court, Lowndes county, Mississippi, on the 15th day of October, A. D. 1847, for $3,373 $\frac{44}{100}$.

Know all men by these presents, that, for a valuable consideration, we transfer and assign the above mentioned and described judgment to William W. Humphries and John K. Otley, with full power to use the same in any manner that we could do; we also guarantee the above sum, due and owing on the same, but by no means warrant its payment.

Witness our hands and seals this 15th day of May, A. D. 1848.

(Signed) THOS. P. MILLER & CO. [SEAL.]
Test: M. McCARTHY.

The defendants next proved by the said subscribing witness that the

foregoing assignment was the consideration of said notes sued on in this action; he also proved the following letters to be in the handwriting of plaintiffs, which were then read, to wit, as follows:

MOBILE, *26th October*, 1848.

MESSRS. HARRIS & HARRISON.

DEAR SIRS: We have been advised by you and Mr. McCarthy that Winston & Hill intend or have already taken the suit of ours up to the Supreme Court. We hope you will give this matter your strict attention, and defend our claim to the last. Do you think best for us to commence suit against Messrs. Humphries & Otley, for the amount of the notes given us for judgment against Winston & Hill? Should you think this course for our interest, and you do not wish to attend to it, please get the notes of Mr. McCarthy and put them in hands of some energetic person for immediate suit. Please write us upon receipt of this.

Yours, respectfully,
THOMAS P. MILLER & CO.,
In liquidation.

THOMAS P. MILLER,
ORLANDO FURNESS.

MESSRS. HARRIS & HARRISON,
Columbus, Mississippi.

GENTLEMEN: You will please observe Ala. law cases or decisions, 8th Porter, 452, affecting our case.

Respectfully,
THOS. P. MILLER & CO.

Mobile, February 7th, 1849.

The defendants next read to the jury the following transcript of the record of said judgment, from the circuit court of Lowndes county, Mississippi, to wit:

THE STATE OF MISSISSIPPI,
Lowndes county, ss:

Pleas at the circuit court, begun and holden in and for the county and State aforesaid, at the court-house, in Columbus, on the second Monday after the fourth Monday of September, 1847, before the honorable Francis M. Rogers, presiding judge of the sixth judicial district for the State of Mississippi, between

THOMAS P. MILLER & Co., plaintiffs,
vs.
THOMAS B. WINSTON & Green Hill, defendants,
} 7390.—Assumpsit.

Be it remembered, that heretofore, to wit, on the 6th day of October,

1847, the plaintiff, by attorney, sued out of the circuit court of said county, a writ which reads as follows, to wit:

The State of Mississippi, Lowndes county, to the sheriff of Lowndes county, greeting:

We command you to summon Thomas B. Winston and Green Hill, if to be found in your county, to be and appear before the judge of our next circuit court, to be holden for the county aforesaid, at the court-house, in the town of Columbus, on the second Monday after the fourth Monday of September next, then and there to answer to Thomas P. Miller and Orlando Furness, merchants and partners in trade, trading under the name and style of T. P. Miller & Co., of a plea of tresspass on the case in assumpsit, to plaintiffs' damage five thousand dollars as 'tis said; herein fail not, and have then and there this writ.

Witness the honorable Francis M. Rogers, presiding judge of the sixth judicial district for the State of Mississippi, the Monday [L. S.] after the fourth Monday of March, 1847, and the 71st year of American independence.

Issued the 6th day of October, 1847.

No bail required.

S. H. LESTER, *Clerk.*

This is an action of assumpsit, and is founded on a promissory note of defendants to plaintiffs, for $3,365 $\frac{34}{100}$, payable one day after date, and dated the fourth day of October, 1847; the sum actually demanded is the amount of said note and interest at 8 per cent. per annum.

S. H. LESTER, *Clerk*,
By WM. WHARTON LESTER, *D. C.*

We, Thomas B. Winston and Green Hill, do hereby acknowledge due and legal service of the within writ, and waive the necessity of being served by the sheriff with a copy of the same.

Oct. 6th, 1847.

THOMAS B. WINSTON,
GREEN HILL.

Witness—M. McCARTHY.

On the 11th day of October, 1847, the following declaration was filed, which reads as follows, to wit:

The State of Mississippi, Lowndes county, circuit court, October term, 1847.

Thomas P. Miller and Orlando Furness, partners in trade, trading under the firm and style of T. P. Miller & Co., by attorney complain of Thomas B. Winston and Green Hill, partners in trade, under the firm and style of Winston & Hill, being in the custody of the sheriff, of a plea of trespass on the case, on promises, &c.

For that whereas the said defendants heretofore, to wit, on the 4th day of October, 1847, at Columbus, to wit, in the county aforesaid, by the above description and style of Winston & Hill, made their certain promissory note of that date, and thereby then and there promised to pay, one day after date thereafter, to the plaintiffs, by the above description and style of T. P. Miller & Co., the sum of three thousand three hundred and sixty-five $\frac{14}{100}$ dollars, for value received, bearing interest at eight per cent. per annum; and then and there delivered said promissory note to the plaintiffs. Yet the said defendants, not regarding their promises, have not yet paid the said sum of money, or any part thereof, to the said plaintiffs, although often requested so to do; but to pay the same to the plaintiffs, or any part thereof, the said defendants have hitherto wholly neglected and refused, and still doth neglect and refuse, to the damage of the plaintiffs five thousand dollars; and therefore they sue, &c.

JACK & JACK,
Att'ys for plaintiffs.

On the 15th day of October, 1847, the following order was entered upon the minutes of said court, in relation to this cause, to wit:

THOMAS P. MILLER and Orlando Furness
vs.
THOMAS B. WINSTON and Green Hill. } 7390. Assumpsit.

This day came the parties, by their attorneys, and proof of acknowledgment of service of writ being made, and the defendants being solemnly called, came not, but wholly made default. It is therefore considered by the court that the plaintiffs recover of the defendants the sum of three thousand three hundred and seventy-three dollars and forty-six cents, their damages sustained by reason of the non-performance of the promise and assumption in the declaration mentioned, together with the costs in this behalf expended. Whereupon the plaintiffs take a stay of execution until the 1st day of May next.

On the 10th day of May, 1848, the following execution was issued, which reads in the words and figures following, to wit:

THE STATE OF MISSISSIPPI, *Lowndes county.*

To the sheriff of Lowndes county, greeting:

We command you that of the goods and chattels, lands and tenements, of Thomas B. Winston and Green Hill, late of your county, you cause to be made the sum of three thousand three hundred and seventy-three dollars and 46 cents, which Thomas P. Miller and Orlando Furness lately in our circuit court recovered against them for damages which they sustained by reason of the non-performance of a certain promise and assumption by the said Thomas B. Winston and Green Hill to the said Thomas P. Miller and Orlando Furness, lately

made, with interest on said sum at the rate of 8 per cent. per annum, from the 15th day of October, 1847, until paid. Also the sum of eight dollars and 62½ cents for their costs by them about that suit in that behalf expended, whereof the said Thomas B. Winston and Green Hill are convicted, as appears to us of record; and that you have the said moneys before the judge of our next circuit court, to be holden for the county aforesaid, at the court-house in the town of Columbus, on the third Monday of September next, ready to render the said Thomas P. Miller and Orlando Furness, for their damages and all costs aforesaid; and have then there this writ.

Witness the honorable Francis M. Rogers, presiding judge of the 6th judicial district for the State of Mississippi, the 3d Mon-
[L. s.] day of March, 1848, and the 72d year of American independence.

Issued 10th day of May, 1848.

A. E. LOVE, *Clerk*,
By R. A. STACY, *D. C.*

Judgment 15th October, 1847, for $3,373 46.

Bill of costs.

Jury tax - - - - - - - -	3 00
Clerk Lester cost—writ 75, fi. fa. 25, dock. 12, app. 12, judg't 25, order 12, enrolling 1 25 - - -	3 13
Clerk Love's cost—recording 1 50, cer. 25, exe. 50, cert. of cost 25 - - - - - -	2 50
	$8 62½

A true bill of cost.

A. E. LOVE, *Clerk*,
By R. A. STACY, *D. C.*

On the back of said execution are the following returns of the sheriff, to wit:

Rec'd 10th May, 1848.

JAMES M. WYNNE, *Sheriff*,
By E. C. EGGLESTON, *D. S.*

The following property has been this day levied upon to satisfy this fi. fa.: N.W. ¼ of sec. 13; E. ½ of N.E. ¼ of sec. 14; S.W. ¼ S.W. ¼ sec. 12; S.E. ¼ of S.W. ¼ sec. 11, T. 19, R. 18 W.; the following pieces and parcels of ground in the town of Columbus, (to wit): the undivided half of lot No. 9, in square three, north of Main street; part of lot No. 4, in square No. 2, north of Main street, commencing at the southeast corner of said lot No. 4, running thence west parallel and fronting on Main street 24 feet, thence north 101 feet, thence east

24 feet, thence south 101 feet, to the place of beginning, on which Green Hill's drug store now stands; and on the following: 1 sofa, 12 parlor chairs, 1 rocking chair, 1 centre table, 1 lamp, 3 prs. andirons and 1 fender, 1 secretary, 1 lounge, 1 work table, 1 crib, 1 trundle bed and furniture, 2 washstands, 2 washbowls and 1 pitcher, 3 looking-glasses, 6 common chairs, 1 safe, 1 side table, 1 bath stand, 3 candlesticks, 1 pine table; and the following bill of drugs and medicines.

10th May, 1848.

J. M. WYNNE, *Sheriff*,
By E. C. EGGLESTON, *D. S.*

47 ½ gallon qautrs. bottle
7 1 gill tincture bottle
25 1 do salt mouths
4 1 do spice jars
36 ½ do salt mouths
13 ½ do tincture bottle
4 2 do salt mouths
7 2 gill spice jars
33 1 do tincture bottles
35 1 do spicu jars
4 2 do salt mouths
3 2 do tinct. bottles
2 quart do do
16 pint do do
6 bott. Aldarze balm Colum.
2 small do do
6 botts. Comstock's sarsaparilla
5 House's liniment
1 thermometer
1 paper letter seals
4 boxes shav. soap
5 dozen windsor do
1 card steel pens
8 ½ pint cologne
2 oz. peperine
14 broken oz. quinine
18 bot. silver wash
1 powder puff
2 lbs. ess. cloves, more or less
½ " " winter green
½ " " pennyroyal
2 " " bergamot
3 ammonia aqa.
3 pts. sol. quinine
½ lb. benzoin co. tinc.
1 " lavender
1½ lb. denar. opii
1 quart and 1 pint spice jars
10 1 quart salt mouths
5 1 pint salt do
2 1 pr. galipts., with covers
8 ½ " " "
9 ½ gal. ointment jars
2 1 qt. do do
2 sets brass scales
1 large copper do weights
2 " show cases
1 small show case
½ doz. ½ lb. tutell powders
13 ½ " "
8 bott. prepared charcoal
½ pt. aquafortis
2 " muriatic acid
2 " oil spikes
1½ " pyroligneous acid
1 " tinc. cubebs
½ " dentrifice
1 " tinct. iron
¾ cubebs
chrome green
10 oz. ch. green
1 lb. carbonate ammonia
1 jar Seidlitz mixture
1 " dubres rhubarb
½ gross ardu. dubres
½ licorice root
½ acetate of lead
1 jar nearly full cream of tartar
1 " mordicum balsam
1 " not full jalap
½ " slippery elm, pulvrs.
1 " Peruvian bark
½ " chrome yellow
½ " Rochell salts

1½ tinc kino
1 " rheubarb
½ " aloes
½ " gua'cum
1 " cotechu
2½ " cinchona. co.
2 " " valerian
1 " " jalape
1 lb. tinc. asafœtida
3 " " cantharides
½ " " iron
2 " " myrrh
1 " " cinnamon
½ " " tolu
1 pint olive oil
3 " castor
1 jar sulphate of zinc
½ " calamus
½ " tonquin beans
½ " white hellebore
½ " blk. do.
½ " sago
4½ " charcoal, pulv.
½ " American calomel
1 " white frosting
1 " black "
½ " simi colchicum
small quantity cochineal
½ jar ball arinuca
½ " arsenic
1 " kino
1 " fennigreek seed
½ " nutgalls pulv.
½ " antimony pulv.
½ " colchicum rad.
½ " tr. digitalis
½ " " aloes
½ " " vinegar of squills
1 " " columbo
½ " " santatine
½ " " capsicum
½ " " columbo
½ " " ginger
½ " solution of arsenic
½ " acetic acid
1 oz. oil wormseed
½ jar tr. colchicum
½ " oil of tar
½ " tartaric acid
1 jar ⅔ full pulvr. ginger
1 " " " Prussian blue
1 " " verdigris
1 " ½ full columbo pulv.
1 wine of colchicum
½ jar tinct. jallap
1½ lb. of sarsaparilla
5½ jars emory, No. 3
2 lbs. chrome marine
5 oz. asbestos
2½ lbs. emory, No. 2
3½ " do fine
1 jar lobelia seneca
1½ " sulphate potash
½ " tartar emetic
½ " oil of cinnamon
1 oz. " " cloves
½ " " " anis
½ pt. " " spruce
½ jar precipitate iron
½ " white precipitate
2 oz. phosphorate iron
½ jar James's powders
½ " tartar emetic
½ doz. Vanilla beans
½ jar indian ink
½ galipot denarco'zed opium
1 jar pills aloes and myrrh
½ " composition powders
½ " Spanish flies
2 oz. cassia
½ jar white nox
1 " magnesia in squares
1 " Indian senna
½ " uva ursi
1 small lot of wafers
½ jar spts. lavander co.
½ " tr. benzoin co.
½ " " camphor co.
½ " " lobelia
½ " aqua ammonia
½ " vinum ipecac
½ " tr. valerian
½ " " myrrh
½ " elixir vitriol
½ " tr. guiac.
½ " " ferri

1 jar Heofman's anodine
1 " red arsenic
1 " oil of juniper
14 " " lavender
1 " " carui
1 " red ink
1 " tinct. hops
1 " chanoze
1 " sm. arrow root
1 " luhern
1 " turmeric
1 " annhura
10 " alta canella
1 " calamus
1 " coriander seed
1 " valerian rad.
1 " senna annis
1 " " tenmell
1 " nivy grass
1 " " "
1 " caliminaria, or spicu
1 " gum tragacanth
1 " sandorem
1 " cubebs
1 " mace
1 " green smalts
6 qt. bottles castor oil
7 " " lemon juice
9 " " sweet oil
5 " " lemon syrup
12 " " claret
8 " preserves
2 " James
2 oz. Spanish saffron
1 jar oil of meuir
1 " colic mixture
1 " ether
1 jar essence of roses
1 " aqua cinnamon
1 " essence of spruce
1 " tr. lobelia
1 " balsam Peru
1 " Cary's black drop
1 " tr. galls
1 " " cubebs
5 chrome yellow
1 bundle uva ursi rubri
1 " fal. salicia

1 jar tr. syrup squills
1 " " " "
1 " gelotin
1 " manna flake
1 " red smalts
1 " dragon's blood
1 " " calamus
7 bottles Howard's sarsaparilla
5 Indian vegetable elixir
7 lbs. bals. chian
4 " Carpenter's kreosote
7 " Iceland moss
6 " " boneset
4 " " dulcimaris
1 " " cubebs
4 " remedy for cholera
2 " Carpenter's liniment
1 " " pink root
1 " " sarsaparilla
2 " ambozan lotion
12 bundles sage
2 boxes Balland's oil soap
1 bundle Va. snake root
1 " arrow root
1 " cinchona
4 bottles temperance bitters
3 " sal tartar
4 " Allen's balsam liverwort
21 " macoboy snuff
1 jar ginger powders
1 bundle shellac
1 " oil of mace
1 " mace
1 " alkinet
1 " lavender flowers
1 " sal soda
1 " ising glass
1 bundle lobelia simi
1 " camilla bark
5 boxes capsules
4 bundles peneroyal
4 " hoarhound
1 " digitalis
2 " ising glass
22 papers pill boxes
1 bundle Indian senna
1 " orange peel
1 " mace

1 bundle grain paradise
1 " cubebs
1 " lemon cassia
1 " lichen
1 " anniseed
1 " cantharides
1 " green smalts
1 " sem. fennell
1 " Iceland moss
1 " ras. guiac
1 " simi annis
1 " sal zinc
1 " ox. magnesia
1 " cascarilla
1 " white hellebore
1 " pix. Burgundy
1 " blk. smalts
9 bottles liver bitters
15 " Spohan's pearl mixt.
9 " balsam Colombia
5 " Connell's clap mixture
5 " Carpenter's liverwort
3 " mother's relief
3 " House's liniment
1 bundle rad. ratany
1 " white frosting
1 " seidlitz mixture
1 " Iceland moss
1 bundle uva ursa
1 " anchrisa
1 " fennigreek seed
1 " linsi carne
1 " " annis
1 " cubebs
1 " lac sulphur
1 " flow. zinc
1 " antimony
½ jar ol of tansy
½ " blk. drop
½ " oi puleyn
½ " " mintha
½ " " amydolin
½ " " anthimides
½ " " mintha
½ " " lip salve
½ drawr gallnuts pulvis
½ lb. bu berry pulvis
14 piece castile soap
1 bundle orange peel
1 " dragon's blood in reeds
15 bottles lavender water
11 " Barclay's sarsaparilla
9 bottles Glen's kreosote toothwash
27 " orris toothwash
13 boxes chemical pile ointment
1 " liquorice
6½ bars castile soap
1 box cinchona
1 " ipecac
1 lot snake root in drawer
1 " sponge
12 pt. brushes, small
10 sash tools
1 lot cam wood in drawers
1 " sarsaparilla root
1 box macoboy snuff
4 demijohns
2 cases and contents
10 trusses
23 "
19 bottles Carpenter's mixture
4 snuff boxes
10 boxes pearl powders
12 vials oil wormseed
9 vials Chapron's cough mixt.
1 drawer gentian root
5 bladders snuff
½ drawer pumice stone
mercurial ointment in gl. jar
8½ pt. bottles sweet oil
27 " " castor oil
14½ pt. bottles, empty
4 crumb brushes
7 gallipots, small
½ jar oil of organum
4 packs cards, small
9 boxes cigars
1 doz. metallic bougies
2 vials pink root
2 bundles gold leaf and copper
19 boxes Fisher's corn plaster
1 doz. " " "
11 pessarys
1 lot cedar pencils
1 breast pipe
10 nail brushes

¼ drawer yellow ocre
¼ " pix. burgundy
¼ " ivory black
17 casks chocolate
¼ drawer India berries
¼ " spice
¼ " gum benzoin
1 lb. gum ammonia
¼ drawer gum shellac
1 lb. gum catechu
¼ drawer crude antimony
¼ lb. gum gamboge
¼ drawer red sanders
¼ " cayenne pepper
¼ " stone ochre
¼ " borax
¼ " gum ammonia
2 suspension bandages
¼ drawer rotten stone
¼ " Spanish brown
¼ " venitian red
¼ glauber salts
¼ rosin
1 drawer orange peel
¼ " chamomile
¼ " spigelia
1 oz. gum mastic
14 packs cards, large
¼ drawer saltpetre
2 lb. cobalt
¼ jar confection roses
¼ " mercurial ointment
¼ " simple cerate
¼ " calamin. ointment
¼ " bazilican "
¼ " mercurial "
¼ " bazilican "
¼ drawer asp. quassie
2 cinnamon bark
1 drawer sundries, labelled gum
1 small lot of sponge
¼ jar tamarind
¼ keg cream tartar
2 lbs. sal soda
25 " 1 box prepared chalk
1 box common "
5 " glass, 12 × 18
18 panes, 12 × 18
6 tooth brushes
9 otter rose vials
4 wafer boxes
10 hair brushes
2 doz. tooth brushes
10 jars soap
1 doz. emollient soap
6 papers ink powders
1 doz. tadel powders
2 boxes sealing wax
1 drawer pill boxes
¼ " juniper berries
¼ " prepared chalk
¼ " red squills
1½ casks of scammony
¼ drawer rad. ginger
3 lbs. ammonia
¼ drawer gum myrrh
1½ yard English lint
¼ drawer epsom salts
¼ " liquorice
¼ " blue stone
¼ " white lead
¼ " red "
¼ " turk's umber
¼ " sienna
¼ " bluing
1½ lb. allum
½ oz. oil of rhoden.
2 " " norah
3 " " orange
½ lb. " sanae
½ oz. " lavender
6 " " cassel
6 " " lemon
6 " " amber
2 " " winter green
1 jar acetic acid
8 bottles blk ink
7 " copal varnish
3 qr. " castor oil
3 " " sweet oil
14 " castor
15 " pepper sauce
4 oz. oil of copaiva
8 " oil of annis
6 " " sassafras
4 bottles Stoughton's bitters

4 boxes glass, 12 × 14
18 panes, 12 × 14
½ bbl. epsom salts
1 box glass, 10 × 14
29 panes, 10 × 14
½ bbl. logwood
1 small lot glue
½ bbl. madder
5 rolled sulphur
33 boxes blacking
5 " Saratoga powders
1 box metritic polypus powders
4 bundles liverwort
2 " thorn apple leaves
1 lot friction matches
73 bottles opodeldoc
23 vials tesstytous ubens
150 " Godfrey's cordial
403 " Balesman's drops
1 jar oil spruce
1 " balsam of sulphur
4 bottles copying ink
10 boxes tapers
7 bottles red ink
1 galipot & 1 oz. solidified balsam
½ " beledosia
½ " colycinth co.
½ oz." ex. gentian
½ " ex. cicuta
½ " ex. sp. ammonia
2 empty galipots
3 cans ext. bellunet
3 jars confection of senne
4 bottles cowhage pulv.
1 " Jas. powders
4 " bref slak, same
4 " blue ink
15 flasks olive oil
2 bottles Potter's catholicon
1 " Indian panacea
1 " James powders
1 " solution sugar of lead
2 wedgewood mortars
3 porcelain "
4 large pill files
6 small " "
7 4 oz. syringes, common
6 bottles Comstock's sarsaparilla
3 bottles chloride of soda
1 " oil of cedar
1 " " penneroyal
1 " Tembrylen's balsam
½ " oil cajuput
1 " " blk. pepper
½ " essence lemon peel
11 bottles copal varnish
9 " neat's foot oil
5 bottles blk. varnish
3 " empty glass
4 " pearl ash
4 oz. Venice turpentine
1 jar conge. dam.
4 oz. nitric acid
1 jar acetic acid
10 bottles magnesia
5 " " small size
1 jar pyroligneous acid
1 lot vial stoppers
47 vials pectoral balsam of honey
4 doz. vials British oil
32 bottles magnesia, small size
1 large mortar
1 hanging lamp
7 whitewash brushes
12 boxes glass, 12 × 14
4 " " 10 × 14
2 " " 10 × 16
14 " " 7 × 9
2 dusting brushes
½ keg chewing tobacco
1 peck clover seed
57 tinct. bottles, large size
9½ gallons tincture
6 " " green glass
17 pt. tincture
35½ pt. "
30 4 oz. "
11 gallon spice jars
19½ " " "
15 qt. " "
19 pt. " "
10 pt. bottles
1 lot sundries, old bottles, &c.
46 lamp shades
1 doz. shew bottles, assorted

1 doz. Hay's liniment
1 " Godfrey's cordial
11 " Peter's pills
11½ reams fool's cap paper
37 boxes soap, small cakes
11½ doz. yeast powders
2 " Seidlitz powders
4 " soda
2 " grass ointment
½ ream letter paper, colored
2 copper boilers
1 lot tapers
1 " flasks
1 lot of dye stuffs in 5 bundles
1 keg red lead
1 " white "
1 box rotten stone
1 lot of hops
1 can neat's foot oil
6 " sweet "
1 bl. copal varnish, am. not known
1 " Monongahela
1 " Teneriffe wine
1 " American brandy
2 gross 8 oz. vials
1 lot 4 " "
7 qt. bottles
1 lot small vials green pepper, &c.
1 " pt. porter bottles
1 " qt. " "
1 lard oil machine
1 lot crockery
1 " of castings
½ bbl. allum
1 " rosin
½ " copperas
1 " red sanders
1 " V. red
1 " S. brown
1 bbl. epsom salts
½ " chalk
1 keg glauber salts
1 lot empty bbls.
1 " empty tin canisters
1 bbl. with a little hair oil
10 forceps for teeth
6 bottles Grey's ointment
10 tooth keys
1 lot crockery, 7 pieces
1 " beeswax
1 bag ginger
1 " spice
40 small galipots
48 bottles Carpenter's sarsaparilla
1 doz. lemon syrup
14 empty pickle jars
1 tin tea canister
1 lot green glass ware
8 cork screws, 2 small
26 spatulas
14 iron rings for syringes
9 fine combs
1 " " "
3 eye glasses
1 trochea
5 boxes yeast powders
8 " Seidlitz "
8 " soda "
21 " capsules, assorted
3 oz. iodine of mercury
½ oz. oil of newhi
8 bottles Comstock's sarsaparilla
2 " accoustic oil
6 " water of gold
3 " " " small
4 boxes wafers
9 " powder puffs
3 Grey's ointment, small
1 doz. ink powder
2 boxes emollient soap [ter, &c.
16 bots. orange, lemon, & rose wa-
16 shaving brushes, assorted
2 pair scales and weights
½ doz. Mitchell's eye salve
1 lot Peter's pills
1 " curling irons
1 " Comstock's pills
1 lot chreen wood pills
2 lancet cases and instrs.
1 lot lancets, thumb.
10 spring lancets
1 lot lancet cases
1 case pocket instruments
2 cupping instruments
3 injecting apparatus
1 bottle carmin

1 pump
9 hair brushes
1 lot court plaster
10 money purses
5 bottles cold cream
104 tooth brushes
15 nail brushes
2 jars soap
3 cow teats
2 chronometers
1 lot dice
5 papers toilette powders
12 " " "
4 bottles Preston's salts
4 fancy perfume bottles
1 lot fine knives

JAMES M. WYNNE, *Shff.*
By E. C. EGGLESTON, *D. S.*

Also levied upon the following piece or parcel of land, to wit, part of lot No. 6 in square No. 3, commencing 68 feet north of S. E. corner of lot 6, in square 3, south of Main street, running thence 22 feet north, thence 66 feet west, thence 22 feet south, thence 66 east to the place of beginning; on which the gunsmith shop now stands, as property of deft. Hill. 10 May, 1848.

JAMES M. WYNNE, *Shff.*,
By E. C. EGGLESTON, *D. S.*

The sheriff will dismiss the levy made under this fi. fa. on negroes Jane, and her children, Mima and Ellet. Also on Martha, Sylva, and Jury, and redeliver the said negroes to the defendant in execution. May 14th, 1848.

HARRIS & HARRISON,
Plffs' attys.

The sheriff will leave the drugs, medicines, and other property on the premises now occupied by Taylor & Gregory as a drug store, and levied on under this fi. fa., in the possession of Messrs. Taylor & Gregory as his agents, subject to his order when called for on the day of sale. May 15, 1848.

HARRIS & HARRISON,
Plffs' attys.

The household and kitchen furniture at the dwelling-house of defendant, the sheriff will leave in his possession as his agent, until the sale day. May 15, 1848.

HARRIS & HARRISON,
Plffs' attys.

The above property was this day sold to Dr. Wm. W. Humphries, E. E. Leech, and others, for the sum of five hundred and ninety-four dollars. Retained twenty-five dollars cost. See Wm. W. Humphries's receipt for the balance of purchase money, five hundred and sixty-nine dollars. No more property found in my county on which levy this fi. fa. to make the balance of plffs' money, 5th June, 1848.

J. M. WYNNE, *Shff.*

A list of the articles levied on and sold attached to this fi. fa., 5th June, 1848.

J. M. WYNNE, *Sheff.*

Rec'd of J. M. Wynne, shff., five hundred and sixty-nine dollars on this fi. fa.

WM. W. HUMPHRIES,
JOHN K. OTTLEY,
By WM. W. HUMPHRIES.

5th June, 1848.

THE STATE OF MISSISSIPPI,
Lowndes county.

I, Amzi E. Love, clerk of the circuit court in and for the county and State aforesaid, do hereby certify, that the above and foregoing 14½ pages contain a true and complete record of all the proceedings had and done in our circuit court in relation to the case, wherein Thomas P. Miller and Orlando Furness are plaintiffs, and Thomas B. Winston and Green Hill defendants, as the same appears of record and on file in my office.

[L. S.] Given under my hand and seal of office, at Columbus, this the 23d day of November, A. D. 1849.

A. E. LOVE, *Clerk.*

The defendants next introduced and read to the jury the following certificate, to wit:

The State of Mississippi, high court of errors and appeals, January term, 1849.

THOMAS B. WINSTON and Green Hill, partners, trading under the name of Winston & Hill, plaintiffs in error,
vs.
THOMAS P. MILLER and Orlando Furness, partners, trading under the name and firm of Thomas P. Miller & Co.

This cause having been submitted at a former day of this term, and the same having been duly considered by the court, it is ordered and adjudged that the judgment of the circuit court of Lowndes county, rendered against the plaintiffs in error on the 15th day of October, A. D. 1847, be, and the same is hereby reversed, and the cause remanded.

It is further considered by the court, and so ordered and adjudged, that the plaintiffs in error do have and recover of said defendants in error their costs in this behalf expended, &c.

I, Wilson Hemmingway, clerk of said high court, do hereby certify, that the above is a true copy of the final judgment of said court in the case therein stated, as the same is of record in my office.

Given under my hand and the seal of said court, this 14th day of March, A. D. 1849. [L. S.]

WILSON HEMINGWAY, *Clk.*,
Pr. WILLIAM C. PAGE, *Clk.*

The defendants here closed their case, which was all the testimony in said cause.

Upon which evidence the court charged and instructed the jury, "that unless the jury believe from the testimony that plaintiffs knew, at the time they made the said assignment of said judgment, that there was nothing due on the assigned judgment, they will find for the plaintiffs.

To which charge and instructions of the court to the jury the said defendants, by their counsel, then and there, before the jury retired from the box, excepted and tendered this their bill of exceptions; which is allowed, signed, and sealed by the court, and ordered to be made a part of the record and proceedings in said cause; which is done accordingly.

Given under my hand and seal.

S. J. GHOLSON. [L. S.]

Filed June 6, 1850.

R. W. EDMONDSON, *Clk.*

Defendants' appeal bond.

UNITED STATES OF AMERICA,
Northern district of Mississippi, sct.

District court, June term, A. D. 1850.

Know all men by these presents, that we, William W. Humphries, John K. Ottley, Robert D. Hayden, and Alexander F. Young, and Abram S. Humphries, are held and firmly bound unto Thomas P. Miller, Orlando Furness, and William Morris, partners under the name of Miller, Furness & Co., in the just and full sum of ten thousand dollars, lawful money of the United States, to be paid to the said Miller, Furness & Co., or their lawful attorney, executors, administrators, or assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the 10th day of June, A. D. one thousand eight hundred and fifty.

The condition of this obligation is such, that whereas, at a term of the district court of the United States for the northern district of Mississippi, commenced and held at the town of Pontotoc on the first Monday of June, A. D. 1850, judgment was rendered by said court in favor of the said Miller, Furness & Co., plaintiffs, against the said William W. Humphries, John K. Ottley, Alexander F. Young, and Robert D. Haden, defendants, for the sum of forty-one hundred and twelve dol-

lars damages, besides costs of suit; and the said defendants having sued out a writ of error from the Supreme Court of the United States to reverse said judgment: Now, if the said Humphries, Ottley, Haden, and Young shall prosecute their said writ of error to effect, and shall well and truly pay and satisfy the amount of said judgment, and all such damages, interest and costs, as the said Supreme Court of the United States shall adjudge in the premises, if they, the said defendants, shall fail to make their plea good, then and in that case this obligation to be void, otherwise to remain in full force and virtue.

W. W. HUMPHRIES, [L. S.]
JOHN K. OTTLEY, [L. S.]
A. F. YOUNG, [L. S.]
R. D. HADEN, [L. S.]
A. S. HUMPHRIES. [L. S.]

I approve of the within bond and security. Given under my hand this 12th day of June, A. D. 1850.

S. J. GHOLSON,
Judge U. S. D. C. for Mississippi.

Filed June 13, 1850.

R. W. EDMONDSON, *Clerk.*

THE UNITED STATES OF AMERICA,
Northern district of Mississippi.

I, Robert W. Edmondson, clerk of the district court of the United States, for the district aforesaid, certify, that the foregoing twenty-four pages contain a true and perfect transcript of the original papers and proceedings filed and had in the cause therein stated, as fully and completely as the same remain on file and of record in my office.

In testimony whereof I have hereunto set my hand, and affixed the [SEAL.] seal of said court at office, in Pontotoc, this 30th day of August, A. D. 1850.

R. W. EDMONDSON, *Clerk.*

THE UNITED STATES OF AMERICA,
Northern district of Mississippi.

I, Samuel J. Gholson, judge of the district court of the United States, for the district aforesaid, certify, that Robert W. Edmondson, whose genuine signature appears to the foregoing certificate and attestation, is, and was at the date thereof, clerk of said court, duly appointed, qualified, and commissioned; that his certificate and attestation are in due form of law, and that all his acts in the premises are, and ought to be, entitled to full faith and credit.

Given under my hand and seal, this 30th day of August, A. D. 1850.

S. J. GHOLSON. [SEAL.]

UNITED STATES OF AMERICA, ss:

The President of the United States, to the judge of the district court of the United States, for the northern district of Mississippi, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said district court, before you, between Thomas P. Miller, Orlando Furness, and William Morris, partners, using the joint name and style of Miller, Furness & Co., and William W. Humphries, John K. Otley, Alexander F. Young, and Robert D. Haden, a manifest error hath happened, to the great damage of the said Humphries, Otley, Young, and Haden, as by their complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the Supreme Court to be then held, that the record and proceeding aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of December, in the year
[SEAL.] of our Lord one thousand eight hundred and forty-nine, and of the independence of the United State the seventy-fourth.

Issued the 12th day of June, A. D. 1850.

R. W. EDMONDSON,
Clerk of the district court of the United States, for northern district of Mississippi.

October 30, 1850. Due service of the within writ of error acknowledged.

EVANS & TOPP,
Attorneys for Miller, Furness & Co., defts. in error.

UNITED STATES OF AMERICA, ss:

To Thomas P. Miller, Orlando Furness, and William Morris, partners, under the joint name and style of Miller, Furness & Co., or Messrs. Evans & Topp, their attorneys of record, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be held at Washington on the first Monday in December next, pursuant to a writ of error, filed in the clerk's office of the district court of the United States, for the northern district of Mississippi, wherein William W. Humphries, John K. Otley, Alexander F. Young, and Robert D. Haden, are plaintiffs, and